

① United States District Court
Western District of New York

Jamie Lamphear
Plaintiff

-against-

Correctional Officers E. Rozell
C. Ruppert, DR. Canfield and
Superintendent Napoli, D.

Defendants

In their individual and
official capacity

42 USC 1983
Amended Complaint
Civil Action

12-cv-0175



Jury demanded

Jamie Lamphear, Prose Plaintiff for the Complaint
against defendant, E. Rozell, Corr Officer, C. Ruppert
Corr Officer, Superintendent D. Napoli and Doctor W.-
Canfield alleges as follows:

1). This Honorable Court has jurisdiction over this
action, under 28 USC 1331(3) and (4) the matters in
Controversy arose under 42 USC 1983

2). This Honorable Court has jurisdiction ~~and the~~
~~28 USC 1331(b)(2) because the~~ overall State pend-
-ing Claims brought forth herein.

3). venue properly lies in this district pursuant
to 28 USC 1331(b)(2) because the events given rise to
this case of action occurred at Southport Correctional
Facility, which is located within the western district of
New York.

(2)

- Parties -

4). Plaintiff, Jamie lamphear, is and was at all times relevant
hereby prisoner in custody of New York Department of Corrections
Southport Correctional Facility (Currently ^{Rumsey} Marcy Corr Facility)

5). Defendant, E. Rozell is and at all times relevant to the complaint
a Correctional Officer at New York Department of Corrections -
- Southport Correctional Facility

6). Defendant C. Repert is at all times relevant to the complaint
a Correctional Officer at New York Department of Corrections -
Southport Corr Facility

7). Defendant, D. Napoli was at all times, relevant to this
complaint the Superintendent at New York Department of
Corrections Southport Corr Facility.

8). Defendant W. Canfield was at all times relevant to this complaint
the (M.D.) Doctor at the New York Department of Corrections
Southport Correctional Facility.

(3)

Statement of Facts

9) This Complaint arise from different occurrences as follows:

(1) July 7th 2009

(2) July 14th 2009

10) First occurrence on July 7th 2009, while plaintiff was in the process of being escorted to the showers, C.O. (Correctional officer) E. Rozell placed mechanical restraints on Plaintiff and upon cell door opening Plaintiff was told to step back and take it down to the showers. E. Rozell poked me in the back after seeing an inmate being escorted on to the Company - and stated to bring it back in to my cell which I Complied. When cell door was closed back Plaintiff's hands was pushed out the back up slot for removal of the mechanical restraints Plaintiff stated to defendant that he has never had any problems at Southport before. Defendant in turn removed one handcuff and twisted the other restrained hand up and away and stated do you want a problem. Plaintiff Said nothing and filed A Grievance SPT-47275-09 Code 48

11) Second occurrence on July 14th 2009, During showers officers E. Rozell and G. Leppert where the escorting officers for showers. upon arriving at Plaintiff's cell

(4)

- 11) Mechanical restraints was placed on plaintiff for escort to showers. Plaintiff's cell door was opened, at which time both officer rushed into plaintiff's cell, knocking him to the floor and repeatedly struck plaintiff upon his back, rib cage, head and face with closed fists and knees. The assault on plaintiff by Correctional officers E. Rozell and C. Ruppert was performed for no other purpose than retaliation against the plaintiff for exercising plaintiff's rights. Filing a grievance regarding officer E. Rozell abuse abuse of unprofessional conduct on 7-9-09. Defendants E. Rozell and C. Rupperts conduct, was rather crude and unusual punishment in violation of plaintiff's Constitutional rights. First: right (1)(8) Both above officers used excessive force in retaliation for prior grievances.

12). I advised Superintendent Napoli by way of Grievance Complaint on 7-9-09 about plaintiff's unjust treatment by defendant on 7-7-09 during showers (Harassment) Code 49. In hopes of being protected = instead I plaintiff was assaulted in retaliation by both officers.

(5)

- 12 - one of whom was named in
Grievance on 7-7-09 - 7 days later Plaintiff
is beat up 7-14-09 - Superintendent Napoli
done nothing to prevent Plaintiff from being
assaulted - Therefore he violated my
Constitutional right as well - Failure to protect
8th Amendment.

13)

Grievances filed and exhausted by Plaintiff

July 7th 2009 spt-44275-09 Code(49)

July 14th 2009 spt 47326-09 Code(49)

July 14th 2009 spt-47344-09 Code(22)

14) The Plaintiff re-allege and incorporate
by reference to these allegations/facts in
paragraphs (1) through (19) and states that
he has fully exhausted his grievances on
each and everyone of these claims.

15) The disciplinary confinement the Plaintiff
has faced due to the defendants concocted
misbehavior report on 7-14-09, which
immediately sent Plaintiff to level one

(6)

-15) Was overwhelming. The Stress plaintiff endured was extraordinary. Intercourse restricted - No showers, Recreation, haircuts. Fully restrained visits = RAM for the sole purpose of covering up misconduct by the defendant, = abuse that has gone on during showers in Southport for many years = which will be proved at trial. Clearly plaintiff has suffered mental anguish.

(16)

First Case of Action Excessive Force

Plaintiff, Jamie Lamphier, alleges and incorporates by reference to his allegations in paragraphs one (1) through nineteen (19) as as fully restated herein:

(17) Defendant G. Report violated Plaintiff Jamie Lamphier's Constitutional rights to be free from retaliation, excessive force and cruel and unusual punishment on July 14th 2009 by assaulting the plaintiff in a sadistic and malicious manner.

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17) Defendant C. Ruppert violated plaintiff Jamie Lamphere's Constitutional rights to be free from retaliation, excessive force, crude and unusual punishment on July 14th 2009 by assaulting the plaintiff in a sadistic and malicious manner.

18) Defendant W. Campbell (DR) violated the plaintiff's Constitutional rights to be free from crude and unusual punishment on July 14th 2009 - ~~or~~ ^{August 19th, 2009 or so by being deliberately indifferent to plaintiff's medical needs by not properly examining plaintiff or prescribing a medication that would dull the pain plaintiff was in due to his fractured ribs.}

19) Defendant E. Rozell violated plaintiff's Constitutional rights to be free from retaliation, excessive force, crude and unusual punishment on July 14th 2009 by assaulting the plaintiff in a sadistic and malicious manner.

(8)

20) Defendant, D. Napoli violated Plaintiff Jamie Lamphere's Constitutional rights to be free from Detention, excessive force and unusual punishment by his failure to protect/act on First Code (99) in time- Therefore he directly participated in these violations.

Injuries Sustained

As a result of defendant's assault, use of excessive force, deliberate indifference - The Plaintiff suffered numerous bruising, swelling, (2) fractured ribs, along with mental and emotional distress. See attached exhibits -

9

Damages

WHEREFORE, the plaintiff request that his honorable Court Declare the acts complained herein are in violation of plaintiff rights under the Constitution and Laws of the United States.

Enter judgment in favor of Plaintiff for actual Compensatory including Consequential damage in the amount of fifty Thousand dollars (\$50,000) against defendants Jointly and severally to Compensate plaintiff for his pain and suffering.

Enter Judgment For the Plaintiff on the amount of Thirty Thousand dollars (\$30,000) against defendant, with the exception of defendant D. Napol, against whom punitive damages of Fifty Thousand dollars (\$50,000)

Award the plaintiff the Cost of this action, including reasonable Attorney fees if Attorney is appointed to plaintiff.

10

Amended Complaint
Civil Action
12-cv-0175

Swear and Subscribed
to before me on

This 4th of June 2013

County of Oneida

BRENT L. ROGERS
Notary Public in the State of New York
Qualified in Madison County 01RO6202020
My Commission Expires March 9, 2017

Brent L. Rogers

Notary Public

County of Oneida

Joe Yann
P.O. 84
Jamie Campshear
Marcy Correction Facility
Box 3600
Marcy New York
13403 - 3600

Affidavit of Service
State of New York
County of ONEIDA

I, Jamie Lamphear being duly
Sworn, deposes and says that
I am the Plaintiff herein and
that on the date of Notarization
indicated below, I have placed
in a Sealed post paid envelope
true and exact, copy of the
enclosed papers, identified as:
Amended Complaint 12-cr-0175
and Affidavit of Service

One original
State of New York
Clerk vs. Western District
Court House Buffalo NY
14202-3350

One duplicate
Kim Murphy
Assistant Attorney
General
State of New York
The Capital
Albany, N.Y. 12224

Sworn and Subscribed
To before me on
this 1 day of June 2013
notary public
County of Oneida

Respectfully
Submitted


Jamie Lamphear
Macy Corrao
Box 8400
Macy N.Y. 13403

EXHIBIT
- A -

FORM (2133)

STATE OF NEW YORK
DEPARTMENT OF
CORRECTIONAL SERVICESINMATE GRIEVANCE
PROGRAMSUPERINTENDENTGRIEVANCE NUMBER

SPT-47275-09

FACILITY

SOUTHPORT

TITLE OF GRIEVANCE

Harassed by officer

SUPERINTENDENT'S SIGNATURE*DF Naper*DATE FILED

7/9/2009

CLASS

I

CODE

49

SUPT. DATE

8-6-09

GRIEVANT

Lamphear, J.

DIN.#

02-B-0336

HOUSING-UNIT

A-1-19

DESCRIPTION OF PROBLEM

Grievant states on 7/7/09 he was harassed by officer M... who twisted his arm while it was handcuffed and then denied him a shower.

ACTION REQUESTED

No action requested.

SUPERINTENDENT'S RESPONSE

A THOROUGH INVESTIGATION OF THIS GRIEVANCE WAS CONDUCTED BY AN ASSIGNED SECURITY SUPERVISOR.

GRIEVANT WAS INTERVIEWED BY SGT. BARBER ON 7/15/09, IN "A" BLOCK'S 1st FLOOR HEARING ROOM AT APPROXIMATELY 3:30PM. HE REITERATED HIS ALLEGATIONS AS FACTUAL, AND OFFERED NO WITNESSES TO SUPPORT HIS ALLEGATIONS. SGT. BARBER IDENTIFIED C.O. ROZELL AS THE ALLEGED OFFICER. THERE IS NO C.O. MOZELL EMPLOYED AT SOUTHPORT.

C.O. ROZELL WHO WORKS THAT AREA HAS GONE ON RECORD AS DENYING ALL ALLEGATIONS AGAINST HIM.

AFTER REVIEW, I HAVE CONCLUDED THAT NO EVIDENCE WAS PRESENTED WHICH WOULD SUBSTAINATE THIS GRIEVANT'S ALLEGATIONS. AS SUCH, THIS GRIEVANCE IS DENIED

If you wish to refer the above decision of the Superintendent, please sign below and return to the Inmate Grievance Clerk. You have seven (7) calendar days from receipt of this notice to file your appeal. An exception to the time limit may be requested under Directive 4040, Section 701.6(g). Please state why you are appealing this decision to CORC.

I'm appealing this response Because I feel there wasn't a thorough investigation & conducted had there been I would never have been assaulted on a later date - it's retaliation!

Officer Rozell was responsible for the Harassment & assault 7-7-09

Jamie Lamphear

Grievant's Signature

8-10-09

Date

7-14-09

Grievance Clerk's Signature

Date

EXHIBIT

- B -

Form 2104.1 (3/93)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

Ref. Directives #4944, 4004

USE OF FORCE REPORT (cont'd)

There are _____ other
reports filed under this
Use of Force Log #

Facility Sp2.	Date & Time of Incident	Facility Use of Force Log # _____-_____
Inmate Name Laghey, J-	DIN 07B0336	If Unusual Incident, CCC Log # _____

Part B - Physical Examination / Treatment Report

Examiner's Name & Title Floyd Fm 11 Date & Time of Examination 7-14-09 1030

Medical Report (Indicate date & time of examination, describe extent of any injuries, and describe treatment provided)

- Bruises noted on forehead/nose/cheek/back
- Left lateral rib area painful - slightly bruised.
- To advise for m.d. eval.

Examiner's Signature and Date

Rfm 117/19/09 1030

Part C - Review and Evaluation by Superintendent

Superintendent's Signature and Date

000649

EXHIBIT

- C -

